



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re **PATENT** application of:

Applicant: Harding, et al.

Application No.: 09/781,733

Art Unit: 3721

Filing Date: February 12, 2001

Confirmation No.: 4193

Title: CUSHIONING CONVERSION MACHINE AND METHOD WITH
STOCK USAGE MONITORING

Examiner: Christopher R. Harmon

Docket No.: RANPP0170USA

APPELLANTS' REPLY BRIEF

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TECHNOLOGY CENTER 3700

Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This brief is submitted in triplicate and in reply to the Examiner's Answer mailed February 18, 2004.

A. Status of Claims

The Examiner points out that the appeal involves claims 6-32, which stand non-finally rejected.¹ The Appellants' Supplemental Appeal Brief mailed January 27, 2004

¹ Examiner's Answer, page 2 under heading "Status of Claims."

effectively indicates that the claims are finally rejected.² It is agreed that the claims stand non-finally rejected.

B. Grouping of Claims

The Examiner has identified an inconsistency in the grouping of claims set forth in the Supplemental Appeal Brief.³ The grouping of claims for issue A should read: Claims 7-9 and 15-19 stand or fall with claim 6. Claims 30 and 31 stand or fall with claim 22. The remaining claims (claims 10-11, 13, 20-21, 23-24, 27-29 and 32) do not stand or fall with any other claim.

C. Reply to Examiner's Response to Arguments

In addressing dependent claims 25 and 26 the Examiner acknowledges that "Ratzel does not directly disclose monitoring/storing information of the cumulative process of producing more than one product,"⁴ but contends that the teachings of Ratzel are not deficient as an anticipating reference with respect to the features recited by independent claims 6, 20, 21 and 22. Despite the Examiner's assertion that Ratzel fully anticipates the features of the claims rejected under 35 U.S.C. § 102, the Examiner's own statement with respect to claims 25 and 26 is indicative of why the teachings of Ratzel are not anticipatory of those claims.

For example, claim 20 is directed to "a method of determining a total cumulative length of three-dimensional cushioning products produced by a cushioning conversion machine over a period of time, comprising the steps of: using the cushioning conversion machine to convert the stock material into a plurality of the three-dimensional

² The Supplemental Appeal Brief referred to the Appeal Brief mailed September 24, 2004 for the status of the claims. At the time of the mailing of the Appeal Brief, the claims were finally rejected.

³ Examiner's Answer dated February 18, 2004, pages 2-3.

⁴ Office action dated November 14, 2003, page 4.

cushioning products during the period of time; monitoring the length of the cushioning products produced ... generating signals in accordance with the monitored lengths of the cushioning products produced ... [and] storing the generated signals as total cumulative length information" (emphasis added).

As another example, claim 21 is directed to "a method of determining the total length of dunnage products produced by a dunnage conversion machine during a period of time, said method comprising the acts of: ... monitoring the cumulative length of dunnage products produced [and] storing ... information regarding the cumulative length of dunnage products produced by the dunnage conversion machine during the period of time" (emphasis added).

It is agreed that Ratzel uses previously determined target pad length values to control the production of the pads on a pad by pad basis while using feedback generated from the angular movement of a rotating conversion assembly. More importantly, it is also agreed that, as set forth by the Examiner, Ratzel "may not be construed to monitor the cumulative length of the products produced by the apparatus over the period of time" (emphasis added).⁵ Accordingly, the cumulative length monitoring and information storing as respectively recited in claims 20 and 21 is not taught or reasonably suggested by Ratzel.

With respect to independent claim 6, claim 6 monitors the passage of stock material through a cushioning conversion machine over a period of time during which a plurality of three-dimensional cushioning products are made and storing information regarding the total amount of stock material that passed through the cushioning conversion machine during such time. This stored information is retrieved to provide an indication of the total amount of stock material that passed through the cushioning conversion machine during the period of time. Since Ratzel does not teach or suggest aggregating any monitored stock usage parameter during a period of time during which

⁵ Examiner's Answer dated February 18, 2004, page 6.

a plurality of pads are produced, Ratzel does not anticipate the claimed steps of monitoring, storing and retrieving.

Regarding the claims that depend from claim 6, the Appellants maintain that Ratzel neither teaches nor fairly suggests the claimed subject matter.

With respect to independent claim 22, claim 22 includes the features of converting sheet stock material into a plurality of three-dimensional cushioning products, monitoring the stock material usage and storing information regarding the cumulative amount of stock material usage by the cushioning conversion machine during a period of time during which a plurality of three-dimensional cushioning products are made in a memory. The fact that Ratzel controls a cushioning conversion machine to make a set of pads for a particular packing job is not instructive of that which is recited by claim 22. More specifically, Ratzel's system does not provide for the determination of cumulative stock material usage by the cushioning conversion machine during the production of multiple products.

Regarding the claims that depend from claim 22, the Appellants maintain that Ratzel neither teaches nor fairly suggests the claimed subject matter.

Turning to the proposed combination of Ratzel and McLean that is used in the rejection of dependent claims 12, 14, 25 and 26, the Examiner states that "the teachings of McLean are not to be adapted to produce cushioning products but only to be adopted in the invention to Ratzel."⁶ In addition, the Examiner implies that the Appellants did not address the combined teachings of Ratzel and McLean.⁷ The Supplemental Appeal Brief mailed January 27, 2004 at pages 7 and 8 discusses why the proposed combination lacks all of the claimed features. Specifically, even if one were to adopt teachings contained in McLean as part of Ratzel, the deficiencies of Ratzel as a teaching reference would not be cured.

⁶ Examiner's Answer dated February 18, 2004, page 7.

⁷ Ibid.

McLean is directed to a heat sealing machine where thermally fusible material is sealed around a liquid and/or a solid article. No length measuring or stock material monitoring features are taught or reasonably suggested by McLean. McLean's machine is a "laboratory" machine for experimentally simulating an industrial packaging process and is unconcerned with how much stock material may be consumed. Therefore, even if McLean were somehow combined with Ratzel, the combination would not provide for determining cumulative stock material usage.

Concerning the Examiner's contention that permissible hindsight reasoning was used to establish the obviousness rejection,⁸ the only motivation to combine the reference set forth to date has been the conclusory statement that "it would have been obvious to one of ordinary skill in the art at the time of the invention was made to include a data processing system with a visual display as taught by McLean in the invention of Ratzel in order to assist in monitoring the process of operation."⁹ Lacking from this statement is the required motivation, suggestion or teaching of the desirability of making the specific combination that was made by the Appellant. In addition, McLean does not provide any techniques for improving the generation of a cushioning product of a desired length. Accordingly, one of ordinary skill in the art of converting stock material to cushioning products and knowledgeable of Ratzel would have little reason to look to McLean to assist in monitoring the production of cushioning products as asserted by the Examiner.

For these reasons, as well as the reasons elaborated in more detail in the Appellants' Appeal Brief and Supplemental Appeal Brief, it is believed that the rejections should be reversed.

⁸ Ibid, page 8.

⁹ Office action dated November 14, 2003, page 4.



Conclusion

In view of the foregoing, the Appellants respectfully submit that the claims are patentable over the applied art and that the rejections should be reversed.

If there are any fees resulting from this communication, the Commissioner is authorized to charge any fees to Deposit Account No. 18-0988 Order No. RANPP0170USA.

Respectfully submitted,

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April 9, 2004
Date

M. David Galin
Name of person mailing paper


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